

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE:	§	
	§	
NEIL EISNER,	§	CASE NO. 05-44474
	§	(Chapter 13)
DEBTOR	§	
<hr style="border: 0.5px solid black;"/>	§	
NEIL EISNER	§	
	§	
Plaintiff,	§	
	§	ADV. NO. 06-04154
V.	§	
	§	
ESTATE OF MARGARET K. EISNER AND	§	
ESTATE OF EUGENE A. EISNER	§	
	§	
Defendants.	§	

MOTION TO JOIN CHAPTER 13 TRUSTEE AS A PARTY PLAINTIFF

Notice

NO HEARING WILL BE CONDUCTED HEREON UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN TWENTY (20) DAYS FROM THE DATE OF SERVICE HEREOF UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH RESPONSE. IF NO RESPONSE IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF A RESPONSE IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

TO THE HONORABLE BRENDA T. RHOADES, UNITED STATES BANKRUPTCY JUDGE:

Janna L. Countryman, the Standing Chapter 13 Trustee ("Trustee") of the bankruptcy estate of Neil Eisner files her Motion to Join Chapter 13 Trustee as a Party Plaintiff ("Motion") as follows:

1. On August 22, 2005, Neil Eisner ("Debtor") filed a voluntary petition under Chapter 13 of the Bankruptcy Code.
2. Janna L. Countryman is the Standing Chapter 13 Trustee of the Debtor's bankruptcy estate.

3. On May 17, 2006, the Debtor filed his Complaint to Avoid Preference to the Estate of Margaret K. Eisner and the Estate of Eugene A. Eisner (“Complaint”).

4. In the Complaint, the Debtor has asserted Chapter 5 avoidance claims which are property of the estate and should be asserted by the Chapter 13 Trustee.

5. Rule 7020(a) of the Federal Rules of Bankruptcy Procedure provides that a person may be joined as plaintiff if she asserts any right to relief arising out of the same transaction, occurrence or series of transactions or occurrences and if any question of law or fact common to such person arises in the action. The Chapter 13 Trustee meets the requirements of Rule 7020(a) for the reason that the claims asserted by the Debtor in the Complaint are property of the bankruptcy estate which should be brought by the Chapter 13 Trustee. Accordingly, the Chapter 13 Trustee seeks to be joined in the Complaint as a party plaintiff.

WHEREFORE, PREMISES CONSIDERED, the Chapter 13 Trustee prays that this Court grant the Motion and that the Trustee be granted such other and further relief to which she may be justly entitled.

Respectfully submitted,

QUILLING, SELANDER, CUMMISKEY
& LOWNDS, P.C.

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By: /s/ Christopher J. Moser
Texas Bar No. 14572500

ATTORNEYS FOR TRUSTEE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion has been served on this 19th day of July, 2006, via regular U.S. mail, postage prepaid upon the following:

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